

## § 111.78

broker in writing and will publish a notice of the new order in the FEDERAL REGISTER and in the Customs Bulletin.

### § 111.78 Reprimands.

If a broker fails to observe and fulfill the duties and responsibilities of a broker as set forth in this part but that failure is not sufficiently serious to warrant initiation of suspension or revocation proceedings, Headquarters, or the port director with the approval of Headquarters, may serve the broker with a written reprimand. The reprimand, and the facts on which it is based, may be considered in connection with any future disciplinary proceeding that may be instituted against the broker in question.

### § 111.79 Employment of broker who has lost license.

Five years after the revocation or cancellation “with prejudice” of a license, the ex-broker may petition the Assistant Commissioner for authorization to assist, or accept employment with, a broker. The petition will not be approved unless the Assistant Commissioner is satisfied that the petitioner has refrained from all activities described in § 111.42 and that the petitioner’s conduct has been exemplary during the period of disability. The Assistant Commissioner will also give consideration to the gravity of the misconduct which gave rise to the petitioner’s disability. In any case in which the misconduct led to pecuniary loss to the Government or to any person, the Assistant Commissioner will also take into account whether the petitioner has made restitution of that loss.

### § 111.80 [Reserved]

### § 111.81 Settlement and compromise.

The Assistant Commissioner, with the approval of the Secretary of Homeland Security, or his designee, may settle and compromise any disciplinary proceeding which has been instituted under this subpart according to the terms and conditions agreed to by the parties including, but not limited to, the assessment of a monetary penalty in lieu of any proposed suspension or revocation of a broker’s license or permit.

## 19 CFR Ch. I (4–1–13 Edition)

### Subpart E—Monetary Penalty and Payment of Fees

#### § 111.91 Grounds for imposition of a monetary penalty; maximum penalty.

Customs may assess a monetary penalty or penalties as follows:

(a) In the case of a broker, in an amount not to exceed an aggregate of \$30,000 for one or more of the reasons set forth in §§ 111.53 (a) through (f) other than those listed in § 111.53(b)(3), and provided that no license or permit suspension or revocation proceeding has been instituted against the broker under subpart D of this part for any of the same reasons; or

(b) In the case of a person who is not a broker, in an amount not to exceed \$10,000 for each transaction or violation referred to in § 111.4 and in an amount not to exceed an aggregate of \$30,000 for all those transactions or violations.

#### § 111.92 Notice of monetary penalty.

(a) *Pre-penalty notice.* If assessment of a monetary penalty under § 111.91 is contemplated, Customs will issue a written notice which advises the broker or other person of the allegations or complaints against him and explains that the broker or other person has a right to respond to the allegations or complaints in writing within 30 days of the date of mailing of the notice. The Fines, Penalties, and Forfeitures Officer has discretion to provide additional time for good cause.

(b) *Penalty notice.* If the broker or other person files a timely response to the written notice of the allegations or complaints, the Fines, Penalties, and Forfeiture Officer will review this response and will either cancel the case, issue a notice of penalty in an amount which is lower than that provided for in the written notice of allegations or complaints or issue a notice of penalty in the same amount as that provided in the written notice of allegations or complaints. If no response is received from the broker or other person, the Fines, Penalties, and Forfeitures Officer will issue a notice of penalty in the same amount as that provided in the